VILET: [New]

INT South Kauai, HI, 246° radial and long. 161°24'14"W.

SEIZE: [New]

INT South Kauai, HI, 246° and Honolulu, HI, 269° radials.

SQUAT: [New]

INT Koko Head, HI, 254° radial and long. 160°51'42"W.

CANON: [New]

INT South Kauai, HI, 288° radial and long. 162°37'11"W.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69.)

Issued in Washington, D.C., on October 12, 1984.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 84–27862 Filed 10–22–84; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 71

[Airspace Docket No. 84–ASO–16]

Alteration of Transition Area; Montgomery, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule..

SUMMARY: This amendment increases the size of the Montgomery, Alabama, transition area to accommodate Instrument Flight Rule (IFR) operations at Autauga County Airport. This action lowers the base of controlled airspace, in the vicinity of the airport, from 1,200 to 700 feet above the surface. An instrument approach procedure, predicated on the Montgomery VORTAC, has been developed to serve the airport and the additional controlled airspace is required for protection of IFR aeronautical activities.

EFFECTIVE DATE: 0901 GMT, December 20, 1984.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone; (404) 763–7646.

SUPPLEMENTARY INFORMATION: .

History

On Monday, August 20, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by increasing the size of the Montgomery, Alabama, Transition area to provide additional controlled airspace for aircraft executing a new instrument approach procedure to Autauga County Airport (49 FR 33025). The operating status of the airport is changed from VFR to IFR. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6 dated January 3, 1984.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Montgomery, Alabama, transition area to accommodate IFR aeronautical operations in the vicinity of Autauga County Airport.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant prepration of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Transition area.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Montgomery, Alabama, transition area under § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) (as amended) is further amended, as follows:

Montgomery, AL—[Amended]

By adding the following words to the end of the present text: * * *: "within a 7-mile radius of Autauga County Airport (Lat. 32°26'12"N, Long 86°30'36"W.), within 4 miles each side of Montgomery VORTAC 323° radial, extending from the 7-mile radius area to 28 miles northwest of the VORTAC. * * *"

[(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.69.)]

Issued in East Point, Georgia, on October 10, 1984.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 84–27860 Filed 10–22–84; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 632

Job Training Partnership Act; Indian and Native American Employment and Training Programs

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Designation Procedures for Grantees.

SUMMARY: This document contains final procedures by which the Department of Labor (DOL) will designate grantees for Indian and Native American Employment and Training Programs under the Job Training Partnership Act (JTPA). The next cycle of such designation actions will cover JTPA Program Years 1985 and 1986 (July 1, 1985, through June 30, 1987). This notice provides necessary information to prospective grant applicants to enable them to submit appropriate requests for designation.

EFFECTIVE DATE: October 23, 1984.

ADDRESSES: Send one original and two copies of advance and final notices of intent to: Chief, Division of Indian and Native American Programs, Room 6102 D Street, NW., Washington, DC 20213, Attention, N/I Desk.

SUPPLEMENTARY INFORMATION: Proposed designation procedures for Indian and Native American Employment and Training Programs under JTPA were published in the **Federal Register** on August 21, 1984 (49 FR 33141) for the purpose of soliciting public comment. Fifteen comment letters were received, all from incumbent grantee organizations or representatives of such organizations.

The letters expressed explicit or implicit strong general support for the concept, principles and procedures published in the **Federal Register**. The comments that were specific in nature either (1) pertained to broad programmatic concerns not confined to the designation process per se or (2)

sought changes that would enhance the commentators self-interest in the designation process, or (3) pertained to designation matters distinctive to Oklahoma Indian and Native American grantees and which are the subject of litigation, i.e., *Muscogee (Creek) Nation v. United States Department of Labor*, No. 84 JTP–12, June 22, 1984, currently under appeal.

Two changes in response to comments have been made to the proposed designation procedures for these final designation procedures. They clarify and reinforce principals or authority already extant in the designation process. The first change is the addition of the phase "and will prevent the undue fragmentation of existing service areas." to the second sentence of general designation principle No. (5) in Part I—*General Designation Principles*. This means discouraging the award of a grant to serve only an area with a concentration of eligible individuals (e.g., a city) within an existing service area to the detriment of the remaining less sparsely populated areas. The second change is to the last sentence of (1) *Designation Letter* in Part IV—*Notification of Designation/Nondesignation* to clarify that the Grant Officer may also make a designation for an area larger than that requested by an applicant, if acceptable to that party. This prerogative of the Grant Officer was inadvertently omitted in the proposed procedures. The sentence now reads "The Grant Officer may make the designation applicable to all of the area requested, a portion of the area requested, or, if acceptable to the designee, more than the area requested."

In addition, Section (2) *Oklahoma Indians* of Part VII—*Special Designation Situations* has been revised to more accurately describe the designation process which the Department has used and will continue to use in Oklahoma.

Table of Contents

Introduction; Scope and Purpose of Notice

Section 401 of the Job Training Partnership Act (JTPA) authorizes programs to serve the job training needs of Indians and Native Americans. Requirements for these programs are set forth in JTPA and in the regulations at 20 CFR Part 632. Pursuant to these requirements, DOL, through published procedures, selects entities for funding under JTPA S 401, designating such entities Native American Grantees, contingent on all other grant award requirements being met. The next cycle of such designation actions will cover JTPA Program Years (PY) 1985 and 1986 (July 1, 1985, through June 30, 1987). This notice describes how DOL plans to make such designation decisions, pursuant to the regulations at 20 CFR Part 632. It provides necessary information to prospective grant applicants to enable them to submit appropriate requests for designation.

Although the PY 1985–PY 1986 designation process will be the second time designations have been made under JTPA, it will be the first time under the current regulations published on October 20, 1983 (48 FR 48754). The process described in this notice is supported directly by the regulations at 20 CFR Part 632. This notice does not involve additional requirements but simply describes, for all eligible organizations' benefit, the procedures which will be followed in making designation decisions.

The amount of JTPA S 401 funds to be awarded to designated Native American Grantees is determined under procedures described at 20 CFR 632.171 and not through this designation process.

The specific organizational eligibility and application requirements for designation are contained at 20 CFR 632.10 and 632.11. Any organization interested in being designated as a Native American Grantee must be aware of and comply with these requirements.

I—General Designation Principles

The following general principles, based on the JTPA and applicable regulations, are intrinsic to the designation process:

(1) All applicants for designation must comply with the requirements found at 20 CFR Part 632 regardless of their apparent standing in the preferential hierarchy. The basic eligibility application and designation requirements are found in Subpart B of those regulations.

(2) The nature of this program is such that Indians and Native Americans in an area are entitled to the program and that they are best served either by a responsible organization directly representing them or by one of their own choosing. JTPA and the governing regulations give clear preference to Native American controlled organizations. That preference is the basis for the steps which will be followed in designating grantees.

(3) A State or federally recognized tribe, band, or group on its reservation is given absolute preference over any other organization so long as it has the capability to administer the program and meets all regulatory requirements. This preference applies only to the area within the reservation boundaries. A reservation organization which may have its service area given to another qualified organization for reasons specified in the regulations will be given an opportunity in the future to reestablish itself as the designated grantee, should it so desire.

In the event that such a tribe, band, or group (including an Alaskan Native entity) is not designated, the DOL will consult with the governing body of such entity as provided at 20 CFR 632.10(e).

(4) In designating Native American grantees for off-reservation areas, the DOL will provide preference to Indian and Native American-controlled organizations as described in 20 CFR 632.10(f) and as further clarified in this notice.

(5) Special employment and training services for Indian and Native American people have been provided through an established service delivery network for the past ten years under the authority of JTPA S 401 and section 302 of the repealed Comprehensive Employment and Training Act (CETA). The DOL intends to exercise its designation authority in a way that will preserve the continuity of such services and will prevent the undue fragmentation of existing service areas. Consistent with existing regulations and other provisions of this notice, this will include exercising preference for those Native American organizations with an existing capability to deliver employment and training services within an established service area. Such preference will be exercised through the recommendations on designation made by the Chief of DOL's Division of Indian and Native American Programs (DINAP) and the Director of DOL's Office of Special Targeted Programs (OSTP) and through the use of the rating system described in this notice. Unless a non-incumbent applicant in the same preferential hierarchy as an incumbent grantee can demonstrate that it is significantly superior overall to the incumbent, the incumbent will be designated if it otherwise meets all of the requirements for redesignation.

II—Advance Notice of Intent

By October 19 of the year preceding a designation year, all organizations interested in being designated as a section 401 grantee should submit an original and two copies of a Standard Form (SF) 424. An organization may submit only *one* SF 424 for any and all areas for which it wants to be considered. A listing of areas to be served must be attached to the SF 424 (Block 21. *Remarks Added.)* A sample listng is shown below and should be closely followed so that DOL will know exactly what areas are to be served. Counties and reservations must be listed separately, by State, in alphabetical order. If a county appears on the list, the DOL will presume the applicant wants to serve the entire non-reservation part of the county, unless a short statement follows the county, such as ARLINGTON COUNTY (minus the Rosslyn area). Also, if the entire Native American population of the county is not to be served, an explanation such as the following should be stated: ARLINGTON COUNTY (minus the members of the Potomac Tribe), or ARLINGTON COUNTY (only the members of the Potomac Tribe).

If the applicant believes any additional information should be provided to avoid confusion, it should do so. For example, if it has served a county for many years, but has not served a city within that county and now wants to serve the city, it should make that point very clear.

If the applicant is not currently a section 401 grantee, it should provide a description of its legal status vis-a-vis the requirements for designation provided at 20 CFR 632.10.

This first step in the designation process will be used to determine which areas have more than one potential applicant for designation. For those areas for which more than one organization submits a SF 424, each such organization will be notified of the situation and will be apprised of the identity of the other organization(s) applying for that area. At this time, it is planned that such notification will consist of providing affected applicants with copies of all SF 424s, submitted for their areas. The notification will occur on or about November 15. The announcement will state that organizations are encouraged to work out any jurisdictional disputes among themselves and submit a revised SF 424 for the required postmarked January 1 Notice of Intent deadline or withdraw their advance notice. For areas other than reservations, it is DOL policy that, to the extent possible, service areas and the organizations operating in those areas be determined by the community to be served by the program. In the event the Native American community cannot resolve differences, the November 15 notification will inform parties that they should take special care with their final Notices of Intent to ensure they are complete and fully responsive to all matters covered by the preferential hierarchy and rating systems discussed in this notice. Following is a sample listing of the attachment to the SF 424 which should be used for both the Advance Notice and the Final Notice of Intent:

* * * * *

(Sample Hypothetical Attachment to SF 424 (Block 21) Showing Geographic Areas Requested)

United American Indian Consortium, 1111 North Main St., Tucson, Arizona 55545, Phone: 703–123–4567, Contact Person: John Littlebull.

This constitutes the sole official listing of areas requested to be served by this applicant during PY 1985–1986 in its JTPA program.

PY 1985–1986 Listing

Arizona Counties

Ajax
Beaumont (only members of Aztec Tribe)
Clairmont
Douglas
Zimmer (all Indians except members of Tolmoc Tribe)

Arizona Reservations

Blue Lake
Green Hill
Black Mountain

New Mexico Counties

Arlington
Denfield (Except City of Brimson)
Edgar
Foobey
Yolo (Except Town of Coko)

New Mexico Reservations

Gargola
Hamico
Managua

The Following Counties are Requested now but Were not Served by This Grantee in Program Year 1984

Arizona Counties

Beaumont
Douglas

Arizona Reservations

Blue Lake

This List for PY 1985–1986 Deletes the Following Areas Which Were Served in PY 1984

Arizona Counties

Arcadia
Monroe

* * * * *

III—Notice of Intent

Postmarked by January 1, as required by the regulations, all applicants will submit an original and two copies of final Notice of Intent consistent with the requirements at 20 CFR 632.11. Although organizations are encouraged to alter their area requests to minimize or avoid overlap with other organizations, they should not add territory to that identified in the October 19 advance notice. Unless currently designated for such area, any organization (other than a consortium) applying on January 1 for noncontiguous areas *must* prepare a separate, complete, Notice of Intent for each such area. In addition, it is the DOL's policy that no information affecting the panel review process (see Part V of this notice) will be accepted past the regulatory postmarked deadline of January 1, nor will DOL provide assistance, at any time, concerning any item involved in the panel review process. All information provided before the deadline must be in writing.

IV—Preferential Hierarchy for Determining Designations

In cases when only one organization is applying for a clearly identified geographic area and the organization meets the requirements at 20 CFR 632.10(b), the DOL shall designate the applying organization as the grantee for the area. In cases when two or more organizations apply for the same or an overlapping area, the DOL will utilize the following order of preference in determining the designee for the geographic area in question. The organization which falls into the highest category of preference will be designated, assuming all other regulatory and procurement requirements are met. In some cases population groups such as tribal membership may be identified as well as counties and reservations. The preferential hierarchy is:

(1) Indian tribes, bands, or groups on Federal or State reservations for their reservation; Oklahoma Indians (see VII. *Special Designation Situations,* below); and, Alaskan Native entities (see VII. *Special Designation Situations,* below).

(2) Native American-controlled, community-based organizations (with significant local Native American community support) for their existing DOL designated service area—unless a non-incumbent applicant qualified for this hierarchical group can demonstrate in its application, by verifiable information, that it is significantly superior overall to the incumbent grantees.

(3) Native American-controlled, community-based organizations new to the requested area but able to demonstrate the capability to achieve significant local Native American community support through verifiable information provided in the application.

(4) Organizations (private nonprofit or units of State or local government) having a significant Native American advisory process, such as a governing body chaired by a Native American and having a majority membership of Native Americans.

(5) Non-Native American-controlled organizations without an Indian advisory process. In the event such an organization is designated, it must subsequently develop an advisory process.

The Chief, DINAP, will advise the Grant Officer as to which position or organization holds in the hierarchy. The Chief, DINAP, may employ personal knowledge, reference checks or onsite reviews to make the determination. It is incumbent on the applying organization to supply sufficient information upon which the determination can be made. Organizations are encouraged to indicate the category into which they believe they fall and must adequately support that assertion. As indicated earlier, applicants will not be able to provide any information past the January 1 postmark deadline and no information will be solicited by DINAP.

V—Use of Panel Review Procedure

In the event the Chief, DINAP, determines that two or more organizations have equal status in the hierarchy, the Grant Officer may convene a review panel of Federal officials to score the information submitted with the Notice of Intent. The purpose for the panel is to evaluate an organization's capability, based on its application, to serve the area in question. The panel will be provided *only* the information described at 20 CFR 632.11 and submitted with the January Notice of Intent. The panel results will be advisory to the Grant Officer, not binding. In reviewing information submitted by the organization, the panel will not accept simple assertions. Any information must be supported by documentation and references, if possible. The following factors will be considered:

(1) *Operational Capability*—50 points.

(20 CFR 632.10 & 632.11)

(i) Previous experience in successfully operating an employment and training program serving Indians or Native Americans of a scope comparable to that which the organization would operate if designated—30 points.

(ii) Previous experience in operating other human resource development programs serving Indians or Native Americans or coordinating employment and training services with such programs—10 points.

(iii) Ability to maintain continuity of services to Indian or Native American participants with those previously provided under JTPA—10 points.

(2) *Planning Process*—30 points.

(20 CFR 632.11)

(i) Private sector involvement—10 points.

(ii) Community support—20 points.

(3) *Administrative Capability*—20 points.

(20 CFR 632.11)

(i) Previous experience in administering public funds under DOL or similar administrative requirements—15 points.

(ii) Experience of senior management staff to be responsible for DOL grant, if designated—5 points.

VI—Notification of Designation/ Nondesignation

The Grant Officer will make the final designation decision based on the review panel's recommendation, in those instances where a panel is convened; DINAP, OSTP, Office of Program and Fiscal Integrity, and Office of the Inspector General recommendations; and other available information regarding the organization's responsibility. The Grant Officer's decision will be provided to all applicants by March 1, as follows:

(1) *Designation Letter.* The designation letter signed by the Grant Officer will serve as official notice of an organization's designation. The letter will include the service area for which the designation is made. It should be noted that the Grant Officer is not required to adhere to the geographic area requested in the SF 424. The Grant Officer may make the designation applicable to all of the area requested, a portion of the area requested, or, if acceptable to the designee, more than the area requested.

(2) *Conditional Designation Letter.* Conditional designations will include the nature of the conditions and the actions required to be finally designated.

(3) *Non-designation Letter.* Any organization not designated, in whole or in part, for an area requested will be notified formally of the nondesignation and given the basic reasons for the determination.

An applicant for designation which is refused such designation, in whole or in part, may file a Petition for Reconsidertion in accordance with 20 CFR 632.13. If an area is not designated for service through the foregoing process, alternative arrangements for service will be made in accordance with 20 CFR 632.12.

VII—Special Designation Situations

(1) Alaskan Native Entities

DOL has established service areas for Alaskan Native employment and training programs based on: the boundaries of the regions defined in the Alaska Native Claims Settlement Act (ANCSA); the boundaries of major subregional areas where the primary provider of human resource development and related services is an Indian Reorganization Act (IRA) recognized tribal council; and the boundaries of the one Federal reservation in the State. Within these established service areas, DOL has designated the primary Alaskan Native-controlled human resource development services provider or an entity formally designated by such provider. These entities have been regional nonprofit corporations, associated corporations established by the regional nonprofit corporation, IRA-recognized tribal councils, and the tribal government of the Metlakata Indian Community. DOL intends to follow these principles in designating Native American grantees in Alaska for Program Years 1985 and 1986.

(2) Oklahoma Indians

DOL has established a service delivery system for Indian employment and training programs in Oklahoma based on a preference for Oklahoma Indians to serve portions of the State. Generally, service areas have been designated geographically as countywide areas. Where a significant portion of the land area of an individual county lies within the traditional jurisdiction of more than one tribal government, the service area to a certain extent has been subdivided on the basis of tribal identification information in the most recent Federal Census of Population. However, where members of many different tribes reside in a given county, no attempt has been made to apportion those members among all of the respective tribes. Wherever possible, arrangements mutually satisfactory to grantees in adjoining or overlapping service areas have been honored by DOL. The DOL intends to follow these principles in designating Native American grantees in Oklahoma for

Program Years 1985 and 1986. Also, as applicable to all other Section 401 designation situations, a competitor for an incumbent's designated area would have to demonstrate its significant superiority overall to the incumbent, and the Department will exercise its designation authority in a way that will preserve the continuity of services and will prevent the undue fragmentation of existing service areas.

VIII—Designation Process Glossary

In order to ensure that all interested parties share a like understanding of the process, the following are definitions for important terms.

(1) Indian or Native American-Controlled Organization

Any organization with a governing board, more than 50 percent of whose members are Indian or Native American people. Such an organization can be a tribal government, native Alaskan or native Hawaiian entity, consortium, private nonprofit corporation, or State agency as long as decisions regarding the program rest with such a governing board.

(2) Service Area

The geographic area described as States, counties, and/or reservations for which a designation is made. In some cases, it will also show the specific population to be served. The service area is defined finally by the Grant Officer in the formal designation letter. Grantees must insure equitable access of services within the service area.

(3) Established Service Area

The area defined by geography or service population which DOL has previously designated as a service area for Indian and Native American CETA or JTPA purposes.

(4) Community Support

Evidence of active participation and/or endorsement from Indian or Native American-controlled organizations within the geographic area for which designation is requested. All such evidence must be verifiable by independent DOL review, including an onsite review.

Signed at Washington, D.C., this 18th day of October 1984.

Paul A. Mayrand,

Director, Office of Special Targeted Programs.

Robert D. Parker,

Grant Officer, Acquisition and Assistance.

[FR Doc. 84-27925 Filed 10-22-84; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-188; Re: Notice Nos. 416 and 438]

Establishment of the Temecula Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a single viticultural area in Riverside County, California known as "Temecula." The proposals to establish two other viticultural areas in Riverside County, California to be known as "Murrieta" and "Rancho California" are not being adopted. This action is based on petitions submitted by the Rancho California/Temecula Winegrowers Association and Callaway Vineyard and Winery, Temecula, California, and is based on careful consideration of voluminous public comments and a public hearing. The establishment of viticultural areas and the subsequent use of viticultural area names as appellations of origin in wine labeling and advertising will help consumers better identify wines they purchase. The use of this viticultural area as an appellation of origin will also help winemakers distinguish their products from wines made in other areas.

EFFECTIVE DATE: November 23, 1984.

FOR FURTHER INFORMATION CONTACT: John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in 27 CFR Part 4. These regulations allow the establishment of definitive viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements.

On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which added a new Part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25(e)(1), Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area.

ATF received petitions from the Rancho California/Temecula Winegrowers Association ("the Association") and Callaway Vineyard and Winery, Temecula, California, ("Callaway Winery"). The Callaway Winery petition was forwarded to ATF after the Association's petition and did not agree with many of the statements made in the Association's petition. In response to the two conflicting petitions, ATF published a notice of proposed rulemaking, Notice No. 416, in the **Federal Register** on July 27, 1982 (47 FR 32450), proposing the establishment of the "Temecula," "Murrieta," and "Rancho California" viticultural areas.

In this rulemaking, ATF considered all public comments received before, during, and after the first public comment period, which ended on September 10, 1982.

On January 20, 1983, ATF held a public hearing on this rulemaking in Temecula, California. (Notice No. 438, published in the **Federal Register** on December 10, 1982 at 47 FR 55498). In preparing this final rule, ATF carefully considered the statements made and exhibits presented by the 31 witnesses at the hearing. During the hearing, ATF reopened this rulemaking for additional public comments.

Name

Historical evidence. The name "Temecula" is derived from the Luiseno Indian word "Temeku," a place name used by the local Indians. This word may be roughly translated as "place where the sun breaks through the white mist." According to the Callaway Winery petition, "It is reasonable to assume that the name the Indians applied to their land referred not to the village alone but also the surrounding area which is characterized by bright sun and misty marine air which flows into the area. * * *" Thus, the name "Temecula" applies, historically, to the entire approved area.

An excavation conducted in 1951 by the Archaeological Survey Association of Southern California determined that the area has been continuously occupied for about 900 years. (*Temeku, A Page from the History of the Luiseno Indians*, B.E. McCown, Archaeological Survey Association of Southern California Paper No. 3, p. 20 (1955)). The southern end of the area occupied by these Luiseno Indians was divided into land grants by Governor Micheltoreno of

Mexico, as follows: Rancho Temecula (in 1844), Rancho Pauba (in 1844), Rancho Little Temecula (in 1885), and Rancho Santa Rosa (in 1846). In general, the outer boundaries of these four land grants, make up the outer boundary of the approved viticultural area. There is historical evidence that the name "Temecula" no longer applies to the northern half of the Temecula Land Grant (Rancho Temecula), after the establishment of the town of Murrieta in 1884.

According to Tom Hudson, author of *A Thousand Years in Temecula Valley* (Temecula Valley Chamber of Commerce, 1981), "The name 'Temecula' implies something more than just one village, or just one valley for that matter. Its connotation is wider than that. In fact, many of the first settlers referred to the entire surrounding countryside as 'The Temecula.' " (p.169). The Indian name "Estengvo Temecula" (literally, "Temecula Hot Springs") applied to Murrieta Hot Springs which was renamed in 1884 when the town of Murrieta was developed. These hot springs were used by the Indians for washing and bathing. (p. 78). The name "Laguna de Temecula" or "Laguna Grande" (literally, "Temecula Lake" or "Large Lake") was used by the early Spaniards to refer to Lake Elsinore, which was renamed in 1883 when the town of Elsinore was developed. (p. 8). "For a few years after that, homesites were advertised for sale 'at the north end of Temecula Valley.' Then with the change of the lake's name from 'Laguna Grande' to 'Lake Elsinore,' the entire land grant [Rancho La Laguna, north of the Santa Rosa and Temecula Land Grants] became known as Elsinore Valley and eventually as Lake Elsinore Valley. Temecula Valley had thus been reduced somewhat in size." (p. 77–78). A similar reduction in the extent of the name "Temecula" occurred in 1884 when, south of the town of Elsinore, the town of Murrieta was developed in the northern half of the Temecula Land Grant.

Current evidence. The approved viticultural area is within a larger tract of land which made up the Vail Ranch from 1904 until it was sold in 1964. The public comment file contains a letter from James Vail Wilkinson, dated August 18, 1982. Mr. Wilkinson believes that "Temecula" would be the proper name for an area which is based on the old Vail Ranch properties. The village of Temecula is at the geographic center of the old Vail Ranch, and the business headquarters of the ranch was located near the village. Thus, until 1964, the name "Temecula" applied equally throughout the approved area.

The entire approved area is within the Elsinore Union High School District and will be served by a new high school which is in the planning stages. On January 13, 1983, the Elsinore Union High School District Board of Trustees reported, at its regular meeting, that the preferred name for the new high school, in a poll conducted with the assistance of the local news media, was "Temecula Valley High School." (Minutes of the Meetings of the Board of Trustees, January 13, 1983, p. 89). ATF believes that the existence of one high school district, unifying all of the approved area under the name "Temecula Valley High School," is more substantial evidence of the current usage of the name "Temecula," than the existence of two elementary school districts named "Temecula Union" and "Murrieta," both of which will be served by the new high school.

Evidence of postal delivery boundaries is inconclusive since only part of the area receives home postal delivery. However, the public comment file contains a letter, dated April 19, 1983, from Ms. Shirley Collins, Acting Postmaster of Temecula, stating that home delivery, throughout the approved area, will originate from the Temecula Post Office in the future. ATF recognizes, however, that service areas established by the U.S. Postal Service are based exclusively on the efficient handling of the mail, and may not always be appropriate for determining the boundaries of local place names.

Evidence submitted by McMillan Farm Management Company illustrates that the name "Temecula" has been used in marketing grapes grown throughout the approved area since 1977. Cilurzo Winery has used the Temecula appellation of origin on wines made from grapes grown on the Santa Rosa Plateau since 1979. These dates are close to the beginning of commercial viticulture in the area. Thus, the marketing of grapes has established application of the name "Temecula" to grapes grown throughout the approved area within the wine industry.

Other opinions. The first page of the Callaway Winery petition contains the following statement, "We see it [the Association's petition] as an attempt to ride the coattails of the name which has become a valuable, meaningful appellation for wine consumers." In disputing the Association's claim that their petition represents all of the winegrowers in the area, Callaway Winery asserts that the Association's petition, "* * * omitted to mention that the winery which has played a major role in creating local and national recognition for the 'Temecula' appellation, and which has produced an estimated 80% of all the wines which have been sold under that appellation,[1] is not a part of the group and does not support its petition." Footnote 1 reads as follows, "Callaway Vineyard and Winery has sold approximately 210,000 cases under the Temecula appellation since its first releases in 1975. We estimate that all other wineries combined have sold approximately 50,000 cases under that appellation, at all times up to the present."

The Callaway Winery petition also claims that public attention to the area "* * * resulted from the investment and efforts of Callaway Vineyard and Winery. Callaway was not the first to plant grapes in Temecula, but the winery was the first to be built there, and it was, and is, the largest: Callaway has produced about 80% of all the wines ever labeled with a Temecula appellation."

ATF rejects the implication that the "Temecula," as an appellation of origin, is the exclusive property of Callaway Winery. The evidence shows that this appellation of origin has been used by other wineries and, moreover, the evidence presented supports establishing the Temecula viticultural area as an appellation of origin for an area larger than that proposed by Callaway Winery.

Summary. Based on both historical and current evidence, ATF believes that the name "Temecula" applies throughout the entire approved viticultural area. However, ATF believes that the town of Murrieta is no longer known by the name "Temecula" and should be excluded from the approved area.

Geographical Features Which Affect Viticultural Features

General. ATF believes that the climate is the unifying geographical feature affecting viticulture in the Temecula area, and that other geographical features are much less important. According to viticultural experts, Temecula is located at a latitude which is too tropical for grape-growing and the existence of a climate anomaly is the only reason that grape-growing is possible at this latitude. In *General Viticulture* by A.J. Winkler, *et al.*, the first sentence in the chapter on climate states, "Grapes are native to the warm temperate zone and their culture is most successful between 34° and 49° north and south latitude."[Temecula is located at 33° 30° North latitude.] The

authors also note that grapes can be successfully grown in anomalous microclimates outside these latitudes. They cite examples such as the Rhine Valley in Germany, where grapes are grown at 50° and 51° North latitude at low altitude with southern and western exposures, and Bolivia, where grapes are grown at 16° South latitude at altitudes above 9,000 feet. They also observe, "It is common knowledge that different localities at the same latitude and altitude differ greatly in climates. Local variations are very important, * * * because they affect greatly the choice of varieties, the training and pruning, the cultural practices, and the quality of the product."

Marine breezes. The climate anomaly in Temecula is marine breezes which cool the area to average temperatures at which grape-growing is possible. The cooling marine breezes enter the area through Deluz Gap and Rainbow Gap and, also by settling along the eastern slopes of the Santa Ana Mountains. The approved area ranges from approximately 15 miles to 30 miles, on a straight line, inland from the ocean. Along the San Mateo-Los Alamos Canyon and the Temecula Canyon, the principal avenues of the marine breezes, the western extremities of the approved area are approximately 19 miles and 22 miles, respectively, from the ocean. Marine breezes are an anomaly at this distance inland from the ocean, and without them, the climatic conditions at this latitude would normally be too tropical for grape-growing. The marine breezes affect the San Rosa Plateau and the Temecula Basin east of it, to a point, near the Oak Mountain Barrier, where the marine breezes begin to dissipate. Although ATF recognizes the opposing argument that different wind patterns affect the Santa Rosa Plateau and the Temecula Basin, the net result of the marine breezes is the same in both places, cooler microclimate than the surrounding area.

Heat summation. The following thermograph data, while showing wide diversity within the approved area, also shows that the approved area is significantly cooler than the surrounding area.

Thermograph locations	Heat [1] summation	Region
Within Approved Area		
Intersection of Rancho California Road and Anza Road.	3,694	IV
DePortola Road, 1 mile northeast of the intersection with Monte De Oro Road.	3,426	III
Murrieta Ridge, north of Teneja Road.	2,783	II
Average of 6 weather stations northeast of town of Temecula.	3,598	IV
Santa Rosa Springs	2,665	II
Unspecified location on Santa Rosa Plateau.	3,106	III
Outside Approved Area		
Elsinore	4,354	V
Perris	4,056	V
Sun City	4,317	V

[1] Units of measure are degree-days above 50 °F. from April 1 through October 31, annually.

Since great diversity is evident throughout the approved area, the more compelling conclusion from this data is that the approved area is significantly cooler than the surrounding area. According to *General Viticulture* by A.J. Winkler, *et al.*, the varieties of grapes grown in the approved area would not be recommended in the immediately surrounding area.

Soils. The evidence shows that the soils east of the town of Temecula are of a granitic type unique in California. However, a public comment from Dr. Enrique Ferro states that comparative analyses of soil samples collected both east and west of the town indicates that they have similar chemical and mechanical properties. Moreover, ATF believes that soil diversity is not as significant as the unifying affect of the marine breeze anomaly discussed above.

Harvest dates. One opposing opinion states that microclimates differ significantly east and west of the town because of differing harvest dates and differing sugar and acid levels in grapes measured at the same time. However, ATF believes that these differences are caused by differing viticultural practices utilized by vineyard managers in the area. Viticultural practices which are oriented toward delayed harvest dates include thin pruning and thin clustering, both during dormancy and during the growing season, and reduced irrigation during the end of the growing season. These practices cause the grapes to mature more slowly and, thereby, directly affect the harvest dates and the sugar and acid levels comparing, on the same date, grapevines managed by different vineyard managers in the area. These viticultural practices are thoroughly discussed and compared in documents contained in the public comment file. Therefore, ATF believes that differing harvest dates, and differing sugar and acid levels in grapes measured at the same time, are not related to geographical features.

Summary. ATF believes that all of the Temecula viticultural area as approved in southwestern Riverside, County, California, possesses one unifying geographical feature affecting viticulture: Marine breezes which produce a cooler microclimate than the surrounding area.

Boundary Modifications

Based on evidence contained in written comments and presented at the public hearing, ATF is modifying the southeastern boundary to include an additional area within the same climatic region. The proposed boundary followed land grant boundaries and section lines which are artificial, man-made features. The revised boundary follows the 1500-foot contour line. This change was requested by Robert Schaefer and Joan Chubb on behalf of themselves and Richard Allen, all landowners and grape-growers or prospective grape-growers in the area. During the public hearing, proponents of both of the opposing parties expressed support for this modification. ATF believes that the marine breezes in the valley cross the proposed boundary and extend to the 1500-foot contour line. Examination of the Pechanga map indicates that the terrain becomes very steep at elevations above 1500 feet in this area. ATF believes that the marine breezes are dissipated by the terrain above 1500 feet elevation and, therefore, the 1500-foot contour line is established as the boundary in the southeastern part of the approved area.

ATF believes that the name "Temecula" does not apply to the town of Murrieta, as previously discussed. Moreover, the urban residential land use in the town is geographically different from the surrounding area. Therefore, the boundary has been modified to exclude most of the town of Murrieta by following, in part, a boundary endorsed by 13 public commenters in the Callaway Winery "Compromise Agreement." This part of the boundary follows Tucalota Creek and Santa Gertrudis Creek to Murrieta Creek. The remainder of the boundary, excluding the town of Murrieta, follows part of the boundary proposed by ATF as an alternative boundary for Murrieta. This part of the boundary follows Murrieta Creek to the town of Wildomar and proceeds in a straight line to the easternmost point of the Cleveland National Forest boundary.

The boundary description has been clarified in the area of the Little Temecula Land Grant. The southern end of the Little Temecula Land Grant includes a part of the Pechanga Indian Reservation which, until 1907, was Lot "E" of the Little Temecula Land Grant. The southern boundary of the Little

Temecula Land Grant coincides with the southern boundary of this portion of the Pechanga Indian Reservation. The proposed regulation described the actual feature shown on the U.S.G.S. map (the Indian reservation boundary) in a place where it coincided with another feature (the land grant boundary). Paragraphs (c)(6) and (c)(7) of § 9.50 now clearly state that this portion of the Pechanga Indian Reservation is part of the Little Temecula Land Grant.

Miscellaneous

ATF does not wish to give the impression by approving Temecula as a viticultural area that it is approving or endorsing the quality of the wine from the area. ATF is approving this area as being distinct, not better, than other areas. By approving the area, wine producers are allowed to claim a distinction on labels and advertisements as to origin of the grapes. Any commercial advantage gained can only come from consumer acceptance of Temecula wines.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Compliance With E.O. 12291

In compliance with Executive Order 12291 the Bureau has determined that this final rule in not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

List of Subjects in 27 CFR Part 9

Administrative Practice and Procedure, Consumer Protection, Viticultural Areas, Wine.

Drafting Information

The principal author of this document is John A. Linthicum, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This regulation is issued under the authority in 27 U.S.C. 205. Accordingly, 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended by adding the heading of § 9.50 to read as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.50 Temecula.

Par. 2. Subpart C is amended by adding § 9.50 to read as follows:

§ 9.50 Temecula.

(a) *Name.* The name of the viticultural area described in this section is "Temecula."

(b) *Approved map.* The approved maps for determining the boundary of the Temecula viticultural area are seven U.S.G.S. guadrangle maps in the 7.5 minute series, as follows:

(1) Wildomar, California, dated 1953, photorevised 1973;

(2) Fallbrook, California, dated 1968;

(3) Murrieta, California, dated 1953, photorevised 1979;

(4) Temecula, California, dated 1968, photorevised 1975;

(5) Pechanga, California, dated 1968;

(6) Sage, California, dated 1954;

(7) Bachelor Mountain, California, dated 1953, photorevised 1973.

(c) *Boundary.* The Temecula viticultural area is located in Riverside County, California. The boundary is as follows:

(1) The beginning point is the northernmost point of the Santa Rosa Land Grant where the Santa Rosa Land Grant boundary intersects the easternmost point of the Cleveland National Forest boundary.

(2) The boundary follows the Cleveland National Forest boundary southwesterly to the point where it converges with the Riverside County-San Diego County line.

(3) The boundary follows the Riverside County-San Diego County line southwesterly, then southeasterly to the point where the Riverside County-San Diego County line diverges southward and the Santa Rosa Land Grant boundary continues southeasterly.

(4) The boundary follows the Santa Rosa Land Grant boundary southeasterly, then northeasterly, to its intersection with the Temecula Land Grant boundary.

(5) The boundary follows the Temecula Land Grant boundary southeasterly, then northeasterly, to intersection with the Little Land Grant boundary.

(6) The boundary follows the Little Temecula Land Grant boundary southeasterly to its intersection with the boundary of that portion of the Pechanga Indian Reservation which, until 1907, was Lot "E" of the Little Temecula Land Grant.

(7) The boundary follows the Pechanga Indian Reservation boundary southeasterly, then northeasterly (including that portion of the Penchanga Indian Reservation in the approved viticultural area) to the point at which it rejoins the Little Temecula Land Grant boundary.

(8) The boundary follows the Little Temecular Land Grant boundary northeasterly to its intersection with the Pauba Land Grant boundary.

(9) The boundary follows the Pauba Land Grant boundary southeasterly, then northeasterly, to the north-south section line dividing Section 23 from Section 24 in Township 8 South, Range 2 West.

(10) The boundary follows this section line south to the 1500-foot contour line.

(11) The boundary follows the 1500-foot contour line easterly to the range line dividing Range 2 West from Range 1 West.

(12) The boundary follows this range line north, across California State Highway 71/79, to the 1400-foot contour line of Oak Mountain.

(13) The boundary follows the 1400-foot contour line around Oak Mountain to its intersection with the 117°00′ West longitude meridian.

(14) The boundary follows the the 117°00′ West longitude meridian north to its intersection with the Pauba Land Grant boundary.

(15) The boundary follows the Pauba Land Grant boundary westerly, then northeasterly, then west, then south, then west, to Warren Road (which coincides with the range line dividing Range 1 West from Range 2 West).

(16) The boundary follows Warren Road north to an unnamed east-west, light-duty, hard or improved surface road (which coincides with the section line dividing Section 12 from Section 13 in Township 7 South, Range 2 West).

(17) The boundary follows this road west to the north-south section line dividing Section 13 from Section 14 in Township 7 South, Range 2 West.

(18) The boundary follows this section line south to its intersection with Buck Road (which coincides with the east-west section line on the southern edge of Section 14 in Township 7 South, Range 2 West).

(19) The boundary follows Buck Road west to the point where it diverges northwesterly from the section line on the southern edge of Section 14 in Township 7 South, Range 2 West.

(20) The boundary follows this section line west, along the southern edges of Sections 14, 15, 16, 17, and 18 in Township 7 South, Range 2 West, to Tucalota Creek.

(21) The boundary follows Tucalota Creek southerly to Santa Gertrudis Creek.

(22) The boundary follows Santa Gertrudis Creek southwesterly to Murrieta Creek.

(23) The boundary proceeds northwesterly along the westernmost branches of Murrieta Creek to Orange Street in Wildomar, California.

(24) From the intersection of Murrieta Creek and Orange Street in Wildomar, California, the boundary proceeds in a straight line to the beginning point.

Signed: September 4, 1984.

W.T. Drake,

Acting Director.

Approved: October 5, 1984.

Edward T. Stevenson,

Deputy Assistant Secretary, (Operations).

[FR Doc. 84-27838 Filed 10-22-84; 8:45 am]

BILLING CODE 4810-31-M

---

27 CFR Parts 19 and 240

[T.D. ATF-186]

Use of Spirits in the Production of Wine and Wine Products To Be Rendered Unfit for Beverage Use

AGENCY: Bureau of Alcohol, Tobacco and Firearms, (ATF), Treasury.

ACTION: Final rule (Treasury decision).

SUMMARY: This final rule amends ATF regulations to implement the provisions of section 455 of Pub. L. 98-369. This new law, entitled the Deficit Reduction Act of 1984, was signed by President Reagan on July 18, 1984, and allows, in part, the use of distilled spirits other than wine spirits in the production in the United States of nonbeverage wine and similar nonbeverage wine products.

The Bureau is presently engaged in the review and redrafting of the wine regulations prescribed in Title 27, Code of Federal Regulations, Parts 170, 231 and 240. When ATF has completed the drafting of revised regulations, a notice of proposed rulemaking will be issued to solicit public comment on proposed revisions of the regulations pertaining to wine, including the regulations contained in this final rule.

EFFECTIVE DATE: The provisions of section 455 of Pub. L. 98-369 became effective on July 18, 1984. The provisions of this Treasury decision become effective on October 23, 1984.

FOR FURTHER INFORMATION CONTACT: Michael J. Breen, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Legislative Background

With the enactment of Pub. L. 98-369 (98 Stat. 494), the excise tax rate for distilled spirits is to be increased, effective October 1, 1985, from $10.50 per proof gallon to $12.50 per proof gallon. The liability for the distilled spirits tax applies to both domestic and imported distilled spirits. The tax is determined upon removal of the distilled spirits from a distilled spirits plant or from customs custody. However, distilled spirits may be removed, without payment of tax, pursuant to the provisions of section 5214 of the Internal Revenue Code of 1954, as amended.

Prior to passage of Pub. L. 98-369, only paragraph (5) of section 5214(a) permitted the withdrawal without payment of tax of distilled spirits for use in wine production, as authorized by section 5373. The language in section 5373 restricts the distilled spirits used in wine production to wine spirits having a minimum proof of 140 degrees or commercial brandy aged in wood for not less than two years and barreled at not less than 100 degrees of proof. Such removals of wine spirits and brandy from bonded distilled spirits plant premises to a bonded wine cellar were and are presently allowed only when the spirits are to be used in the production of wine and wine products (including nonbeverage wines).

Prior to enactment of this new law, a manufacturer who elected to use spirits other than wine spirits in the production of nonbeverage wines had to pay the Federal excise tax at the distilled spirits rate and, following manufacture, file claim for drawback of all but one dollar of the tax paid on each proof gallon of spirits so used. Accordingly, domestic manufacturers who wished to use spirits other than wine spirits in the production of nonbeverage wine products had to pay $1.00 for each proof gallon of spirits used. The Internal Revenue Code, however, imposed no restrictions on the importation of foreign-produced nonbeverage wines and similar nonbeverage wine products to which spirits other than wine spirits had been added. Since foreign producers were not subject to the $1.00 of drawback per proof gallon, such imported products have been priced relatively lower than comparable domestic products. Section 455 of Pub. L. 98-369 provides parity between domestic producers and importers of foreign-manufactured nonbeverage wines and nonbeverage wine products.

Pub. L. 98-369 amends section 5214(a) to provide language in a new paragraph (13) specifically authorizing the addition of spirits other than (but not excluding) wine spirits and brandy to wine which is to be used in the production in the United States of wines and wine products which are to be rendered unfit for beverage use. While this new language liberalizes the provisions of law pertaining to the use of spirits in wine production, the restrictions against the use of nonbeverage wines and nonbeverage wine products in the compounding of any distilled spirit or wine for beverage use or in the manufacture of any product intended to be used in such compounding remain in effect.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable because this final rule will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to: have significant secondary or incidental effects on a substantial number of small entities; or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.